

Serial No. 10/736,270  
Response dated August 8, 2005  
Reply to Office Action of June 7, 2005

Attorney Docket No. CS23688RL

### **REMARKS/ARGUMENTS**

Claims 1 through 16 remain in this application. Claim 11 has been amended.

The above Office Action states that the listing of references in the specification is not a proper information disclosure statement. However, Applicants assert that all references identified by the specification have been submitted in a separate Information Disclosure Statement ("IDS") filed December 15, 2003.

The above Office Action states that the IDS of "August 5, 2005" fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP §609, because the references listed fail to list a date. Applicants assume that the above Office Action is referencing the IDS of December 15, 2003, submitted by the Applicants. Applicants hereby submit a supplemental IDS which clearly identifies the date of all listed references.

The Abstract of the disclosure is objected to because of implied phrases. Applicants hereby amend the Abstract to delete the objectionable language.

The disclosure is objected to because the specification lacks a Summary of the Invention. Applicants respectfully submit that this section is not required by the U.S. Patent statutes and rules. To elaborate, 37 C.F.R. 1.73, also restated by MPEP §608.01(d), states:

A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, *should* precede the detailed description. Such summary should, *when set forth*, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed. [emphasis added]

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37 C.F.R. 1.73 and 37 C.F.R. 1.77 describe elements of the application that "should" appear, including the Summary. However, OG notice page 1190 OG 74, Sept. 17, 1996, (Response to Comment 17) specifically states, "Section 1.77 is permissive rather than mandatory", and OG notice page 1190 OG 70, Sept. 17, 1996, that says that 1.77 has now been clarified by adding "if applicable", since 1.77 does not, by itself, require that an application include all of the listed sections. Also note that 37 C.F.R. Sections 1.71 to 1.75, which recite the various application sections, use the words "must" or "shall" when referring to the Specification, Abstract, Brief Description of the Drawings, and Claims, but uses the term "should" when referring to the Summary in 37 C.F.R. 1.73. Given the USPTO's own official comments on what is meant when using the term "should", this appears to make it clear that 37 C.F.R. 1.73 does not mean that an application "must" include a labeled section entitled Summary of the Invention.

Claim 11 is objected to for depending on claim 12. Claim 11 is hereby amended to depend from claim 10 instead of claim 12.

In view of the above, reconsideration and withdrawal of the objections to the listing of references in the specification, the IDS, the Abstract and the disclosure/specification are respectfully requested.

### CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope

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of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,  
Aerrabotu, Navccn, et al.

Please forward all correspondence to:  
Motorola, Inc.  
Law Department (HDW)  
600 North US Highway 45, AS437  
Libertyville, IL 60048

 08/08/05  
Hisashi D. Watanabe Date  
Attorney for Applicant(s)  
Registration No. 37,465  
Telephone: (847) 523-2322  
Facsimile: (847) 523-2350